

REMARKS

Reconsideration and withdrawal of the examiner's rejections under 35 USC § 103 is respectfully requested in view of the above amendments and the following remarks. The applicant would like to thank the examiner for his time and kind cooperation in this matter.

35 USC § 103

The examiner has rejected claims 2, 4 and 6-10 under 35 U.S.C. 103(a) as being unpatentable over Boeskh (US 5,488,095) herein Boeskh in combination with Nigam (US 6,291,023) herein Nigam. In response, applicants have amended independent claims 2 and 4 to contain the limitations of claim 9 and also amended "amine-containing" to "secondary amine-containing" to clearly distinguish the claims over Boeskh and Boeskh in combination with Nigam.

Support for this amendment includes the recitation of iminodicarboxylic acid itself which is a secondary amine (see claim 9 and page 7 of the application) and the phrase "wherein the polyester prior to azetidinium functionalisation comprises secondary amine groups" – see the diagram on page 7. This makes clear that the polyester which reacts with the epichlorohydrin has secondary amine groups.

The Examiner cites a reference to iminodiacetic acid reacted with ethylene glycol which forms a polyester (col.3 lines 27-30 of Boeskh). The Examiner then states that it would be obvious to take this material and react it with epichlorohydrin which is disclosed in Nigam (col. 8, line 20 etc.). However, applicants respectfully submit that this is clearly not what the combination of references teach to the skilled person when the whole contents of each reference is considered.

In the context of § 103, the essential teaching of the references are sought. By the same token, "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241, 147 U.S.P.Q. 391, 393 (C.C.P.A. 1965); see

also *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448-49, 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986) (holding that district court, by failing to consider a prior art reference in its entirety, ignored portions of the reference that led away from obviousness).

Applicants respectfully submit that Boeskh discloses condensation products that contain N,O-acetal or carboxamide structures, which are obtainable by the condensation of (a) with (b) to form acetal/ketal-lactones, and subsequent cleavage with (c). The condensation products are used as a detergent additive (see col. 1 lines 43 to col. 2 lines 2). Column 2 into col. 3 then lists alternatives for compounds of group (a) – one of which is the polyester outlined in col. 3 line 27-32.

However, it is respectfully submitted that this polyester is not disclosed as a useful compound for laundry purposes. It is instead disclosed as an alternative for (a), which is reacted with compounds of (b) and then (c) to form a useful product. If the polyester on col. 3, lines 27-32 was used, it would be a compound of group (a) (I) as the 'N' group and the 'COOH' group are attached to the same carbon atom. This would be reacted to form an N-acetal if the directions on col. 1 lines 45-65 are followed. Thus the secondary amine would be reacted, and so the skilled person would understand that there would be no secondary amine present in the reacted material to react with the epichlorohydrin.

Applicants further respectfully submit that the skilled person reading Boeskh and Nigam together, and following the teaching of the whole contents of Boeskh, could never be motivated to arrive at the present invention, as it is not possible for the reaction product of Boeskh to have secondary amine groups, which is both outside of and teaches away from the amended claim.

The examiner has rejected claims 2, 4, 6 and 10 under 35 U.S.C. 103(a) as being unpatentable over Rippon (GB 1547958) in combination with Makhlof, et al., (US Patent 3,686,111, cited in the previous Office Action). In response, applicants respectfully submit that the inclusion of the limitations of claim 9 into amended independent claims 2 and 4 obviates this rejection. Claims 6 and 10 ultimately depend from claim 4.

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Applicants again take note that the second page of form 1449 mailed on March 3, 2005, has not been returned. It would be appreciated if the examiner could kindly return the signed form with his next response. A copy is enclosed for the examiner's convenience.

CONCLUSION

In summary, claims 2, 4 and 6 have been amended. Claims 8 and 9 have been cancelled as being redundant. No new matter has been added by these amendments.

In light of the above remarks, applicants submit that the claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested. The examiner is invited to contact the undersigned if there are any questions concerning the case.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Alan A. Bornstein", written in dark ink.

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